Revenue (1954) Department

MS SERIES

G.O. No. A1

Dated 6 1 1949

[Despatch Abstract.]

Tax- M.B.S.T. Act, 1939- Rebate under section 7. Groundnut and castor Oils- Applicability - Orders passed.

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REVENUE DEPARTMENT.

Subject:
MADRAS GENERAL SALES TAX ACT 1939- Rebate under Section 7- Groundnut and castor Oils- Applicability- Instructions- Requested.

Reference T. 8948/48-2.

Madras. Dated 29th November 1948.

Khan Sahib Md. Sultan Modiuddin Hussain Sahib Bahadur, B.A
Secretary, (Commercial Taxes), Board of Revenue,
Madras.

S. Ranganathan, Esq., O.B.E., I.C.S.,
Commissioner of Land Revenue and Commercial Taxes.

Read: From the Deputy Commissioners.

REFERENCE:

"Vegetable Oils" are eligible for rebate under Section 7 of the Act. A doubt has arisen as to whether groundnut and castor oils are vegetable oils eligible for the rebate. The Deputy Commissioners (Central) and (South) opine that these oils are eligible for rebate.

2. Rebate under section 7 is admissible for sales of finished articles of industrial manufacture if the sales are for delivery outside the province. Groundnut and castor oils are no doubt articles of industrial manufacture. This is proved by the fact that this department registers all manufacturers of groundnut oil and cake and allows them rebate under rule 18 of the (T and A) Rules. According to the Imperial Oxford dictionary vegetable oil is an oil produced by subjecting the seeds of plants to pressure. Groundnut and castor oils are prepared by subjecting the seeds of plants to pressure either by the contry chekkus or machinery. Oil manufacture is undoubtedly an industry. The Board therefore agrees with the Deputy Commissioners (Central) and (South) and recommend to the Government that these oils may be declared as vegetable oils eligible for rebate under Section 7.

3. In this connection the Board submits that in the administration report for 1947-48 the Deputy Commissioner (Central) has recommended the withdrawal of the concession under Section 7 on the ground that most of the articles of industrial manufacture are not products of local industries. The Board is of opinion that the suggestion for withdrawing Section 7 is acceptable also for the following reasons:--

(i) The concession under Section 7 was intended to be beneficial to foreign consumers and also helpful to the local manufacturers to stand competition in outside markets with foreign competitors in similar articles. It is doubtful whether under the old Act, the foreign consumers were really benefited by the concession under Section 7. The Manufacturing dealers collected the full sales tax from the buyers and at the end of the year the manufacturers got the rebate. This rebate is legally and morally due to the foreign buyers. But except in the case of scrupulous manufacturers, the others usually appropriated the rebate to themselves. The department never worries whether the rebate was refunded to the out-side buyers. Under the amended act and Government orders the manufacturers can collect only half the tax from the provisionally and wait till the end of theyear for refund of half thertax on such transactuons as rebate. If for some reasons the rebate is not allowed the dealer has to pay the other half of the tax from his pocket. In order to avoid this risk

the manufacturer may collect the full tax from the buyers. This in effect defects the intention of Section 7. There is nothing in the Act to prevent him from collecting full tax. The utmost the the Government can do will be to refuse rebate on such transactions in which full tax was collected. The manufacturer will not worry on this account because the entire amount collected by him as sales tax will be taken away by the Government unde the new Section 8 (B) (2) of the Act,. So Section 7 was actually beneficial financially to the manufacturer under the old act and under the amended act it is a gain to the Government. At no time was it beneficial to the foreign consumers.

'ii) The explanation (2) to Section 2(h) of the amended Act has changed. the method of finding out where a certain sale takes place in respect of a claim relating to sale outside the province- i.e., the place of sale will be determined with relation to the physical location of the goods at the time of sale or contract to sell. Due to this change in the Act, there is likely to be increase of calims under Section 7 because under Section 7 the manufacturers will stand to gain at least half the tax instead of fully losing a claim as a sale outside the province.

(iii) The intention of Section 7 was also to encourage local industries and to help the manufacturers compete on an equal footing with outside competitors. Now almost all the provinces and states have introduced the sales tax and under these acts the Foreign manufacturers also will have to pay tax, So the Board considers that there is no more need for showing any speedal consideration to manufacturers of this province alone.

The Board therefore agrees with the Deputy Commissioner (Central) and recommends to the Government that Section 7 may go to the lasting benefit of the revenues of the Government.

for Secretary,
(Commercial Taxes).

To the Secretary to Government, Revenue Department.

True Copy.

GOVERNMENT OF MADRAS.
Abstract.

Tax- M.G.S.T. Act, 1939- Rebate under section 7 - Groundnut and Castor oils- Applicability- Orders- passed.

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Revenue Department.

G.O. Ms. No. 41. Dated 6-1-1949
Read also:
From the Board of Revenue, Ref.T. 8948/48-2 d/29-11-1948.

O R D E R:

The Government agree with the Board of Revenue that groundnut oil and castor oil are vegetable oils and that they are eligible for rebate under section 7 of the M.G.S.T. Act.

2. As regards the withdrawal of the rebate allowed under section of 7 of the Act recommended by the Board, the Board of Revenue is requested to report in due course the total amount allowed as rebate under section 7 of the Act during 1948-49 so as to enable the Government to form an idea of the extent to which the concession is being utlised. The question whether the rebate should be continued to be allowed or not will be decided later.

(By Order of His Excellency the Governor)

Sd.
Secretary to Government.

To the Board of Revenue of
Commercial Taxes.

True Copy

Office Assistant,
Madras Record Off

K.S
30/9.